

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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NICHOLAS SCARANGELLA,

Plaintiff,

-against-

GROUP HEALTH INC. and SCARANGELLA &
SONS, INC. d/b/a VILLAGE FUEL, as
Administrator of the VILLAGE FUEL EMPLOYEE
BENEFITS PLAN,

Defendants.
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Civil Action No.:
05 CV 5298 (RJS) (RLE)

**DECLARATION OF
WILLIAM J. O'MAHONY**

Pursuant to 28 U.S.C. § 1746, William J. O'Mahony states as follows:

1. I am a partner with Quadrino Schwartz and I am one of the counsel of record for Defendant Scarangella & Sons, Inc. d/b/a Village Fuel ("Village Fuel") in this matter.
2. I submit this Declaration in support of Defendant Village Fuel's Motion for An Award of Attorney's Fees from Defendant Group Health, Inc. ("GHI") pursuant to 29 U.S.C. § 1132(g)(1).
3. Annexed hereto as Exhibit "A" is a true and correct copy of the Notice of Removal of GHI's lawsuit against Village Fuel to this Court.
4. Annexed hereto as Exhibit "B" is a true and correct copy of GHI's Memorandum of Law in Support of its Motion to Remand.
5. Annexed hereto as Exhibit "C" is a true and correct copy of the November 1, 2005 and March 13, 2006 emails sent by counsel for GHI.
6. Annexed hereto as Exhibit "D" is a true and correct copy of requests for production, interrogatories, and requests for admissions served by GHI upon Village Fuel. GHI also served subpoenas *Duces Tecum* upon the telephone service provider for Nicholas Scarangella and Village Fuel and upon Village Fuel's accountant, Steve Boccio. GHI also conducted the depositions of Nicholas Scarangella, Village Fuel, and Steve Boccio.

7. Annexed hereto as Exhibit “E” is a true and correct copy of the August 6, 2008 emails exchanged between counsel for Village Fuel and counsel for GHI.

8. Annexed hereto as Exhibit “F” is a true and correct copy of the transcript of the April 29, 2009 status conference held before Judge Sullivan.

9. Annexed hereto as Exhibit “G” is a true and correct copy of the parties’ May 15, 2009 letter to Judge Sullivan.

10. Annexed hereto as Exhibit “H” is a true and correct copy of GHI’s May 26, 2009 letter submitted to Judge Sullivan.

11. Annexed hereto as Exhibit “I” is a true and correct copy of GHI’s July 6, 2009 letter advising Judge Sullivan that it had settled with Plaintiff.

12. Annexed hereto as Exhibit “J” is a true and correct copy of GHI’s Settlement Agreement with Plaintiff.

13. Annexed hereto as Exhibit “K” is a true and correct copy of GHI’s August 14, 2009 letter submitted in opposition to Village Fuel request for a Pre-Motion Conference concerning its motion for attorney’s fees.

14. Annexed hereto as Exhibit “L” is a true and accurate copy of the June 15, 2007 email from counsel for Village Fuel to counsel for GHI and the attached Asset Purchase and Settlement Agreement concerning Village Fuel.

15. Annexed hereto as Exhibit “M” is a true and accurate copy of Senator Rockefeller’s August 15, 2009 letter to CIGNA requesting information regarding CIGNA’s alleged practice of “purging” small businesses whose employees have serious health problems.

16. Annexed hereto as Exhibit “N” are true and accurate copies of stories from ABC News’ website regarding health insurers’ practices of rescinding the policies of insureds who incur costly claims and illnesses.

I declare under penalty of perjury that the foregoing is true and correct. Executed on December 15, 2009.

By: /s/
William J. O'Mahony